

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**MINUTES  
MAUI / LANAI ISLANDS BURIAL COUNCIL**

**DATE: WEDNESDAY, JULY 27, 2005**  
**TIME: 9:00 A.M.**  
**PLACE: COUNTY OF MAUI**  
**PLANNING DEPARTMENT**  
**KALANA PAKUI BUILDING 1<sup>ST</sup> FLOOR**  
**250 S. HIGH STREET**  
**WAILUKU, HAWAII 96793**

**ATTENDANCE:**

**Members:** Dana Naone Hall, Vice-Chair  
Leslie Kuloloio  
William Frampton  
Scott Fisher  
Kema Kanakaole  
Keeaumoku Kapu  
Edward Kaahui  
Pualani Paoa

**Absence:** Charles Maxwell, Chair (excused)  
Mei Lee Wong (excused)

**Staff:** Kawika Farm, Clerk Stenographer II  
Melissa Kirkendall, Maui Archaeologist  
Vince Kanemoto, Deputy Attorney General

**Guests:** Mike Dega Ralph Masuda  
Hal Hammatt Tanya Lee-Greig  
Uilani Kapu Lisa Rotunno-Hazuka  
Dale Bassford

**I. OPENING REMARKS**

Vice-Chair Dana Hall convened the MLIBC meeting at 9:47 a.m. Hall apologized for the lateness of starting the meeting and explained that the new, incoming IBC commissioners needed to have an Oath of Office signed and notarized prior to convening the meeting.

Hall mentioned that the Chair, Charles Maxwell's wife is very ill and said she, as the Vice-Chair, will be Chairing the meeting today. Hall called on Leslie Kuloloio to give the *pule wehe*.

## **II. APPROVAL OF MEETING MINUTES**

**May 26, 2005**

Hall asked if there were any revisions, corrections or clarifications that the council members wished to make on the May 26, 2005 minutes. Hall asked if the council would approve of deferring the acceptance of the minutes until the end of the agenda due to having a number of minor corrections and for the purpose of bringing the items of business on the agenda forward more rapidly.

**Kanakaole moved and Frampton seconded "to defer the approval of the minutes until the end of the agenda."**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

## **III. BUSINESS**

### **A. BURIAL TREATMENT PLAN FOR SITE 50-50-05-5563 LOCATED AT MAUI COUNTRY CLUB, SPRECKELSVILLE, WAILUKU AHUPUAA, WAILUKU DISTRICT, ISLAND OF MAUI, HAWAII; TMK: (2) 3-8-78-:01**

**Determination:** Determination on a request to relocate Site 5563 human skeletal remains displaced from a sand fill layer.

**Recommendation:** Recommendation on revised burial treatment plan.

Mike Dega of Scientific Consultant Services (SCS) Archaeology introduced himself and Dale Bassford the General Manager (GM) of the Maui Country Club (MCC). Dega said they appreciated the council's comments from last month's meeting and have revised the burial treatment and preservation plan (BTPP).

Hall mentioned she and Dega spoke by telephone on July 18th to make further revisions to the BTPP, which Dega acknowledged. Hall said on page 1 because this has been re-titled burial treatment and preservation plan, on the third paragraph it should read "this burial treatment and preservation plan." Hall said after that correction to make a global correction throughout the plan of the abbreviation BTP to BTPP. Hall said at the end of paragraph 2 on page 1 it reads "the inventory report offered by O'Rourke in 2004," and in paragraph 3 it refers to the same inventory report but gives the date 2005. Hall wanted to know which is the correct year, to which Dega answered May 23, 2005. Hall said the second sentence in the third paragraph on page 1 should read "the BTPP also provides the methods for preservation of the reinterment site in perpetuity," and suggested to Dega to delete and revise the current sentence. Hall addressed the council and said this is an unusual situation because we don't often have plans that involve re-interment of human skeletal remains that had no in situ elements. Hall said in other words this isn't a burial that was placed in its original burial spot. Hall said these were human remains found in a sand fill layer and still required a burial treatment plan in order to determine what the long-term measures will be for protection.

Hall commended Dega for the changes she had asked him to make regarding some of the figures within the BTPP. Hall said on page 12, the first line in the second paragraph which refers to “a small stone monument measuring 1 meter square” or 3.28 square feet, suggested the platform should be a little larger than the reinterment pit to protect against depression of the pit which occurs over time. Hall suggested changing in the first line 1 meter square to 1.2 meter square and in parentheses put 4 square feet. Dega agreed with Hall and said the revision she asked for was made towards the end of the same paragraph and mentioned the first sentence had probably been overlooked. Hall said to spell *re-interment* without the hyphen and to make the correction throughout the document.

Hall said the third bullet point on the middle of page 16 in line 4 where it reads, “this map will be registered,” suggested changing the word registered to recorded. William Frampton said in line 2 of the same bullet point after the word listed, to include the words “and described.” In the same bullet point in line 3 Hall said to delete the word registered and replace with recorded. Hall said she didn’t think the first part of the third sentence is necessary since recordation of the map is mentioned in the previous sentence and said to add recordation with the Bureau of Conveyances to the second sentence. Hall also said to keep in the 60 days language. Dega asked who would be writing the letter of determination at SHPO. Hall said it would probably come under the administrator’s signature, Melanie Chinen.

Hall said the second line on page 16 under verification, to replace the word “must” with “shall.” Hall said at last month’s IBC meeting, it was discussed that the buffer area could continue to be landscaped with grass and asked Dega to include language within the BTPP to mention landscaping of lawn grass in the buffer area. Hall addressed the council and said to identify yourself before you speak for recordation of the minutes. In the second bullet point on page 16, in line 2, Scott Fisher said where it reads “notify the MLIBC and/or SHPD,” suggested the sentence just read “and” and to delete “or.” Hall agreed with Fisher. Frampton said the last sentence on page 17 where it starts with verification, to include the words “from photographs” after the word verification. Hall said she liked the suggestion made by Frampton. Kirkendall said most people usually send her digital photographs of verification where originally she would have to go out physically to the site for verification. Kirkendall agreed with Hall and said given her and IBC member’s time constraints, the inclusion of photographs for verification purposes was a great idea. Dega asked if a letter would be written to SHPD about verification of buffers. Hall said yes and suggested it would be better to say, verification including photographs.

Hall asked the council if they had any further comments and, if not, the Chair would entertain a motion.

**Kuloloio moved and Frampton seconded, “that the Maui / Lanai Islands Burial Council determined that site 5563 human skeletal remains collected from a sand fill layer during subsurface archaeological inventory testing, be relocated and reinterred on the property.”**

Hall said the BTPP contains the details as to where the surface marker will be constructed and where the reinterment area is, in relation to where the remains were initially found.

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

Kuloloio asked to make a second motion pertaining to the BTPP for the MCC.

**Kuloloio moved and Kanakaole seconded, “that the Maui / Lanai Islands Burial Council recommends approval of the Burial Treatment and Preservation Plan with the revisions recommended by the Maui / Lanai Islands Burial Council.”**

Hall said the second motion will basically be made to SHPD who will determine the final approval of this plan. Hall said the Vice-Chair will offer to review the revisions and communicate to SHPD that the revisions requested by the council have been made.

**VOTE: ALL IN FAVOR. The motion carries unanimously.**

**B. BURIAL TREATMENT PLAN FOR THE DEPARTMENT OF HAWAIIAN HOMELANDS (DHHL), KULA RESIDENTIAL LOTS, UNIT 1 OF KEOKEA SUBDIVISIONS, KEOKEA AHUPUAA, MAKAWAO DISTRICT, MAUI ISLAND, HAWAII; TMK: 2-2-02:55**

**Information / Recommendation:** Discussion of revised draft burial treatment plan.

Mike Dega of SCS Archaeology identified himself and said he did not have a representative from the Department of Hawaiian Homelands (DHHL) with him. Hall said she was glad this item was not on the agenda for determination because of the fact there's so many new council members. Hall said this was an opportunity for the new council members to digest this issue because it's a project that has been ongoing for some time. Hall suggested the new council members ask questions and address any concerns they may have pertaining to this project or to at least formulate questions that may be asked at the next IBC meeting at which time, this item will likely be on the agenda for a determination on preservation in place of the identified burial and possible burial sites. Hall suggested Dega give a quick overview of this project for the new council members.

Dega said several stages of archaeological work were conducted for DHHL Keokea lands which fronts Grandma's Café. Dega said the first inventory survey was done in 1989 by PHRI Shoreline. Dega said SCS was later hired several years later to do a data recovery on this site. Dega said the data recovery plan was written by the State Historic Preservation Division under Ross Cordy, the Branch Chief at the time. Dega said during the two phases of research, 12 confirmed and/or possible burial areas were located on the Keokea parcel. Dega said nothing can occur in the historic preserve area which is over 45 acres of landscape that will be preserved by these native Hawaiian pre-contact sites. Hall asked Dega if there was a figure which can be shown to help illustrate what he's talking about. Dega said yes, figure 2 on page 3. Hall said originally the preservation area recommended by SHPD was approximately half of its current size and as a result of burial sites being found in habitation features, the historic preserve area was expanded to incorporate more of these sites. Hall said it's important to note that a ridge line is incorporated into the preserve area which is an important geological aspect of the land and how the sites relate to this land. Dega said there's been very good communication between the homeowners association and the burial council members to create this historic preserve. Dega said it's unprecedented given the size and scope of the area and mentioned there are over 20 sites being preserved in this area. Dega said these sites

have multiple features which equate out to over 100 features from pre-contact habitation, ceremonial sites, burial areas and pre-habitation agricultural areas. Dega said this was an amazing piece of property that the council had a hand in preserving.

Kuloloio said working with subdivisions development in previously undeveloped lands, he noticed over time a build up of *opala* occurs. Kuloloio said regardless if it's DHHL, the public or private development, there's always the issue of *opala* which later transpires. With respect to rubbish, Kuloloio feels there needs to be a stronger emphasis on *malama*, taking care of the land and preserve area. Kuloloio said this emphasis needs to be included because once the plan is approved, it's almost certain the council will never review this plan again. Kuloloio said he wants to know if the council can make some type of motion to approve, so that specific and binding language could then be included in the BTP. Kuloloio said this language would then require DHHL to understand that no junk or abandon cars and other *opala* can be on the preservation area. Kuloloio said his concern comes from what he sees on lots of other privately owned property where people heavily litter and turn areas into their own personal dump. Kuloloio said if language about *malama* the area can be included in the BTP, then it would give DHHL some protection so that if violations are cited, then DHHL, the Homeowner's Association or the residents themselves will be responsible for the removal and cleaning of any *opala* that builds up. Kuloloio said he isn't sure how to word what he's talking about into the BTP and mentioned he thinks the council was in agreement with him and asked them what their thoughts are.

Hall said she thinks what Kuloloio mentioned was a good idea. Kanakaole agreed with Kuloloio and reiterated about how it's important to think about the future because once plans are approved, the likelihood of ever seeing these plans again are slim to none. Fisher asked if Kuloloio meant language for the purpose of requiring DHHL to contact IBC members or SHPD in the event that there's a buildup of trash or to contact members of the county so they may respond to the issue. Hall said she thinks what Kuloloio is saying, is to have language included in the BTP that would make it clear that the preserve area is not to be used as a dump and shall be kept clear of any trash buildup. Hall said this language would be good to have in the preservation plan (PP) because it would serve as an alert that a response should be fulfilled. Pua Paoa said her experience was that there was a thing called a covenant which she learned about from attending a community meeting for the new subdivision, Waiehu Kou Phase III. Paoa said at the meeting the point Kuloloio made about *malama* an area was discussed and a plan was initiated to incorporate this *malama* concept. Paoa asked if it was too late to have a plan similar to Waiehu Kou to be applied to this project here being presented by Dega.

Dega said it's not too late and he was about to mention that there was an accepted preservation plan for the project area and parcel. Dega said the PP has gone through SHPD and within the PP was language alluding to this point about *malama*, such as keeping the area free of debris, structures and things of that nature. In regards to the point about *malama* Dega said the language was in place, but the PP could be modified to make an agreement with DHHL to address other concerns. Dega said he thinks the language was in the PP. Kirkendall said the language was in the PP and thinks it was a good idea to have the language included in the BTP as well. Kirkendall said her question was that currently there is no vehicular access to the preservation area and any parcels adjacent to this area may accumulate cars and rubbish which was borderline. Kirkendall said there needs to be language which also addresses the point of sharing a common boundary line.

Hall said the more she thinks about it, the more well taken that (inaudible) was. Hall said this could easily result in a lot of junk ending up in the preservation area because it's a no man's land.

Keeaumoku Kapu said he believed Hawaiian Homes to have an Association, to which Hall confirmed. Kapu said normally what the Association does is put together their own covenants pertaining to what is done in the area. Kapu said the council may want to recommend something to the Association to put this discretion, based upon everyone's responsibility to protect these sites. Kapu said he knows that with private subdivisions they put together their own bylaws. Kapu said maybe some members of the council could require DHHL to put together a covenant to protect these areas and have those with adjoining parcels to these sites become somewhat of a curator with the responsibility that it's their *kuleana* also as well as the association.

Hall said it's unfortunate no representative from the Association is present today because this is exactly the sort of comments they should be hearing. Kapu said we need to get them here to which Hall agreed and said she's sure they can. Dega said he'll have a representative for the next meeting. Hall asked Dega if he could convey language about what was discussed into the BTP and as a minimum to start, suggested the language presently in the PP for the non-burial sites be included in the BTP in the appropriate place.

Kuloloio said the sites and protection was in the BTP because it states (on page 16) "ultimately, the association, along with the DHHL, will be responsible for maintenance and protection of these four sites." Kuloloio suggested adding language at the end or immediately following this sentence which would cover what he and the council had been discussing so at the next IBC meeting they will be able to fill in any *pukas* or additional questions/concerns. Hall said this language may have to be added in other places as well. Hall asked if the Association is going to be responsible for all non-awarded lots. Hall explained that from the figure on page 3, some of the sites are not located on residential lots and as a result wanted to know if the association is going to be responsible for care and maintenance of these lots. Dega said as far as he knows, the answer is yes, the Association will care for those lots. Hall said there should be specific language that says "burial sites not on an awarded lot are the responsibility of the association; this includes sites in the historic preserve area as well as sites outside of the historic area and outside of an individual subdivision lot." Dega said if you look on page 3, a good example is site 2339 in the south eastern corner of the parcel. Dega said this site had a large sink hole and the association took care of it by covering and filling it in and this is why site 2339 is a good example of what Hall had mentioned. Hall said if all the areas outside of the preservation lot are going to be deemed common areas, then we can refer to them as common areas. Hall said if not, then there needs to be further distinction.

Kuloloio said he wanted to note that Associations are all different in the sense that some are going to be gung ho that really *malama* and others are going to be non-gung ho Associations that don't really care. Kuloloio said this was why this type of language is really important because we don't know what type of leadership any given association will have. Kuloloio said without this type of language it's hard to hold an Association responsible because the Association may take the stand point of saying well I didn't know about this or that, then one junk car going come, then two, then three and then you have a dump.

Regarding the inventory survey set forth for the BTP for DHHL, Kapu asked if it was ever required for DHHL to also undergo a cultural inventory assessment. Dega responded by saying no. Hall said she knows that cultural assessments has been conducted by DHHL for some of the subdivision projects, however there has been a significant amount of cultural consultation on the burial plan. Kapu said the reason why he asked if a cultural inventory assessment has or is being done, was because there will be more input from the community especially from the *kupuna* of the area. Kapu said this will be beneficial for future generations because in the long run if there's only the BTP which identifies multiple sites, it may lead to future legal problems. Dega said he isn't sure if the DHHL is legally required to do a CIA. Kapu said his point was that when you have a site this massive, the CIS or CIA would also involve the curatorship of the Association and recommend that DHHL applies the cultural inventory assessment to this area. Kapu said by doing this the area will have a complete assessment from old stones, oral history, sites and other things. Kapu said the bottom line was this all comes down to money, because the CIA takes longer and cost more than a BTP. Hall said this was one of the things the council is always aware of and the council can make recommendations to the effect of what Kapu was talking about. Hall said ultimately the council's main recommendation has to deal with burials sites.

Fisher read (on page 15, the last sentence under burial treatment and preservation) "please note that only the respective burial features will be preserved at each site, not the entire site itself." Fisher asked if there had been any consultation that notes the recipients of these rewards about the possibility of these burial sites. Dega said there had been a couple meetings and his understanding was that the recipients would represent themselves. Dega said the recipients want to preserve the burial feature at 3 meters around the exterior map area feature. Dega said if there are other features on the property, the recipients wanted to preserve those as well. Hall said it was a voluntary informal (inaudible) that was ultimately the choice of each lessee which means it's likely many other features in a given site may be destroyed. Hall said this was a very significant area that was just covered with alien plant and trees. Hall asked Dega if he would agree that because of the thickness of vegetation not all of the sites and features within this several hundred acre area have been identified. Dega agreed with Hall. Hall said even during data recovery, other sites had been seen which was not previously reported. Hall said this was also likely to be the case as clearing of the land occurs, or when the infrastructure was put in. Dega said, "to answer your question, was it more during Waiohuli Phase I which is to the north than Phase II. They said some of the lots are going to have sites and some aren't, but there's an overwhelming response of people who say they want a lot with a site. More so they know about anything on the property. So there is a grand flow of preservation." Hall said in reference to what Kuloloio had said earlier, there is a fluctuation of commitment. Hall said because this was voluntary, a lessee can elect to be responsible at one point in time and irresponsible later, which would (inaudible) up what commissioner Kapu was talking about.

Frampton said he wasn't sure exactly how the approval process of constructing a house works and suggested that prior to construction if the council can have language put into the BTP to ensure some type of requirement has been fulfilled. Hall said at a minimum the BTP should definitely be a part of each lease agreement which means there should be language that says this burial treatment plan shall be incorporated into the lease

agreement. Hall told Dega he needs to talk with the DHHL about how they want to include specific language about incorporation of the BTP into the lease agreement. Hall said this relates to what Paoa had mentioned earlier about a declaration of covenants and restrictions.

Dega said it would make sense for each lessee to know the boundaries of known burial sites because there was the unknown of not knowing how to present this and not knowing where all the burial sites are. Dega suggested having each person who owns a lot near the preserve to possibly (inaudible). Hall interjected and said she doesn't think it makes sense because people may have the idea that since the unknown sites and features were not identified earlier, they may feel like they don't have a responsibility for it. Hall said this may lead to too much confusion and suggested at this point in time to have the BTP only go with lots that have known sites. Hall mentioned that if new sites are encountered in the future, it would be subject to a new plan anyway. Hall said she didn't have the exact figures, but mentioned 20 percent of the sites subject to data recovery conducted by SCS ended up having a burial site. Hall said many of these sites are massive and they are many, many square meters large. Hall repeated her feelings on how significant this area is.

Kanakaole felt this issue would ultimately come down to the lessees themselves in respect to whether or not they're going to *malama* the sites. Kanakaole said his wife's cousin has a parcel on a DHHL property below which has a *heiau* right on the parcel. Kanakaole said his wife's cousin *malamas* the *heiau* by keeping it clear of vegetation, planting ti leaves around it and leaving the stones as they are. Kanakaole felt that as a preservation council, they should constantly be stating to lessees the concept of "if you take of the *aina*, the *aina* will take care of you."

Kapu said the county has a lot of ordinances which pertain to cultural inventory assessments. Kapu said when it comes to the DHHL, what he's seen was a lot of hear say matter in regards to when the subdivision was put in place and the approvals have gone through and now we're finding burials. Kapu asked Vince Kanemoto if this item could be transferred over to the Cultural Resource Commission (CRC) for further comments and recommendations. Kanemoto said the DHHL was considered to be federal lands. Hall agreed with Kanemoto in the sense that at one point the DHHL lands were federal, but mentioned DHHL lands were transferred over to the state and has been administered a state agency since. Kanemoto said his understanding was DHHL lands are subject to federal laws. Kanemoto said federal laws are subject to NAGPRA (Native American Graves Protection and Repatriation Act). Hall clarified that the issue has never been adequately resolved, because ceded lands include lands that are not part of DHHL. Hall said these lands are disposed of and administered by the state. Hall said the CRC on the county level has primary decision making power within the historic districts on Maui and there are two. Hall said one is the Wailuku historic district and the other is the Lahaina historic district. Hall said lands outside of these districts operate the same as the burial council, meaning the CRC acts in an advisory capacity for the county on matters involving cultural resources. Hall said generally the state does not send matters over to the county when the state has its own jurisdiction. Hall addressed Kapu and said the CRC can ask to review this case as long as it's placed on the CRC's agenda. Hall mentioned it would be a good idea to have this item on CRC's agenda. Kanemoto said he doesn't know enough about Maui County law to state whether or not that's something the CRC will have



jurisdiction over. Kanemoto said his understanding has always been that DHHL lands are federal lands subject to NAGPRA. Kanemoto asked if Kapu was talking about the CRC reviewing sites on DHHL land, to which Kapu said yes. Kanemoto said he's not sure if the CRC has the jurisdiction to do that.

Kanemoto said anytime there's conflict in the hierarchy of laws, between county and state laws, state law will prevail. Kanemoto said there are rare occasions where county law may trump state law. Kapu said he's not trying to create a competitive conflict between both sides, but rather find a consensus for both sides to sort of piggy back each other. Hall said she thinks multiple reviews are useful. Hall said she wanted to caution Kapu, that there have been reviews and acceptances by SHPD of an inventory survey, a subsequent data recovery report and an overall preservation plan for non-burial sites. Hall said in terms of the historic preservation review process the CRC could take a look at this item. Hall said the review process is extremely advanced on the state level. Kirkendall said there's still the monitoring, because all the roads will be monitored. Hall acknowledged what Kirkendall said and added that she was talking about the plans that need to be approved prior to initiating construction. Kapu said what he's hearing was the state doesn't have anything to do with DHHL and an inventory assessment. Kapu said the county requires any development in an area to do a CIS. Kanemoto said that's local county law.

Frampton said it's actually state law when you do an EA (environmental assessment). Kapu said they get their recommendations from DLNR and SHPD all the memorandums that are sent to us as far as reviewing and making recommendations in a certain area, everything that comes to the CRC is sent from SHPD. Frampton asked Dega if the DHHL has done a cultural assessment and if they haven't, suggested that SCS simply ask them to do one especially if a DHHL representative will be at next month's IBC meeting. Frampton said he doesn't think the DHHL would object to doing a cultural assessment because it is important to have the stories and information of this area. Frampton said documenting this information was important for future generations to be able to learn more in depth about the history of this area. Dega mention a CIA was being done next door to Keokea in Waiohuli.

Lisa Rotunno-Hazuka identified herself and mentioned she's also on the Cultural Resource Commission with Kapu. Hazuka said it's basically a volunteer item when things are brought before the CRC. Hazuka said CRC has been trying to get the developers/landowners to bring their plans the same time as SHPD is reviewing the inventory survey, the data recovery survey or preservation plan because CRC's comments become (inaudible). Hazuka said she thinks that's the point being made how everything is so far down in the process that everything is accepted at a state level, by the time CRC gets to review an item, it's an item that really should have been reviewed like 10 months ago. Hazuka said she doesn't see any reason why Keokea can't be placed on CRC's agenda for review. Kanemoto asked Hazuka if every review by CRC is strictly voluntary by the developer or property owner. Hazuka said she can only recall a few instances where CRC's review of an item had been mandated. Hazuka said besides those cases which fall in the Lahaina and Wailuku district, there haven't been many other cases mandated. Hazuka said Palauea was a project that had to come before the CRC. Hazuka said a lot of landowners and developers are becoming aware of CRC's desire to see what types of sites are on a parcel and how it was being managed. Hazuka reminded the council of CRC's ability to only make recommendations outside of the two historic districts.

Kanemoto asked who does CRC make its recommendations to? Hazuka said to the Department of Planning.

Kanemoto said he thinks what he and Hazuka just talked about would answer Kapu's question. Kapu said it's automatic for the CRC to make comments on lands designated under the historic districts. Kapu said lands owned privately or whatever outside of these historic districts, what normally happens when the CRC asks them to do a CIS was they do it. Kapu said private landowners usually do the CIS because they are trying to be more keen to their area and the history and understanding of that area as well. Kanemoto asked if on a county level, does the CRC along with the Department of Planning essentially work the same way as the MLIBC? Kanemoto asked if when the CRC makes a recommendation on a case that was outside of Lahaina or Wailuku, then doesn't the planning department attached those to permits as conditions? Kapu answered yes.

Kuloloio said he's glad this subject was coming up and thanked Kapu for bringing this subject before the council. Kuloloio said let's assume we, as a burial council, begin to receive reports under a certain criteria that compel us to follow certain guidelines. Kuloloio said the criteria is what's being told to us by the Attorney General's (AG) office of using NAGPRA, HRS and the IBC program itself. Kuloloio said because of this, Kirkendall seems to be a person cut in half. Kuloloio said when the council talks about how we need to stay within our confined parameters, what is confined parameters? Kuloloio said the CRC also has confined parameters and there was no doubt that sometimes the CRC and the IBC overlap. Kuloloio said sometimes there are burial issues that the council must let go because it's not within the council's confined parameters. Kuloloio said the council also has interpreted definitions and signage which may also overlap. Kuloloio asked what cultural patterns were. Kuloloio said because to him, when the council talks about cultural patterns he thinks they're talking about burials, but in actuality what was meant by cultural patterns was features and sites. Kuloloio said "like one burial that was found on a structure, like in Hawaiian Homes. Who investigates the dignity, the settlements, and the patterns of that structure? Not us as a burial council. It's supposed to be the CRC and so it works sort of hand in hand."

Hall interjected to say on a state level, SHPD when it has someone in its position, does have a cultural and history branch. Kirkendall agreed with what Hall had said but also mentioned there has never been a formal review process for cultural impact assessments. Hall said this was something that needs to happen on a state level as well as a county level. Frampton said requiring CIAs was not under SHPD's control. Frampton said this was under a whole another branch. Frampton said what we do have is the Office of Environmental Quality Control that requires CIAs which is also how an EA is done and he's certain this information does not go to SHPD. Hall agreed with Frampton and said it doesn't make any sense. Kapu asked how people with a project of this size would go to a review account of Hawaii Historic Preservation process. Kirkendall said there have been several requests to have SHPD's cultural and history person review CIAs. Kirkendall said she is unaware of any CIAs which may have been reviewed in the last 5 years. Kirkendall said she and Maui's assistant archaeologist Cathy Dagher has recommended a CIA be completed in the field at least twice.

Hall said there actually have been some cultural assessments done, but not on a consistent basis. Hall said this was probably because SHPD has been short staffed. Hall

suggested to Kapu that he, as a commissioner for CRC, place a request to have this matter with whoever is in charge of setting the agenda and proceed from there. Hall said if the planning department does not put this item on the agenda, then there may be a problem.

Hall addressed Dega and said in the introduction on page 1, the second sentence in the first paragraph needs to be revised. Hall said "the sentence is a little backwards because what the council is going to be doing is making a determination on previously identified burial sites and those were the ones identified during inventory survey. This sentence should properly start with that, "this BTP specifically focuses on preservation of burial sites and possible burial sites previously identified on the Keokea property during inventory survey by Brown et al (1989) and the preservation in place of burial sites discovered during data recovery research by SCS," Hall suggested Dega put his report in parentheses (Dega et al 2004) to identify when the burials were discovered.

Hall said on page 5 where it says, "buffer zones shall be established at no less than 5 meters from the exterior of all burial sites." Hall asked Kirkendall if this sentence was clear enough because there are two sites that are basically lava features, the rest are architectural sites. Kirkendall asked if it's 5 meters from the exterior of the enclosures. Hall said two of the sites are not enclosures. Dega said one of the sites was a sink hole and the other was a rock overhang that is basically going to be walled up. Kirkendall said this could be more explicit and suggested to Dega he may want to indicate just before the split of the 5 sites. Hall referenced the table on page 6, the second to the last item on the left hand side where site 2339 was identified near the highway. Hall asked what highway was being referred to, because if it's Kula highway then include Kula in the table on page 6.

Hall said on page 17 which talked about interim burial feature buffer zones, to make the clarification when geological features are being mentioned. Hall said the second sentence in the first paragraph on page 17 was really problematic because determination will be done in the field sort of ad hoc. Hall said this field determination will be done without any governmental reviews. Hall continued reading "Representatives of the Association and DHHL will be in the field with SCS archaeologists when minimal distance (5 m) buffer zone fences are placed and if needed, be expanded to afford adequate protection for the burial sites." Hall continued reading the next three sentences and said they repeated information and suggested condensing and removing unnecessary repetition. Hall said she was not comfortable with the idea of permanent buffer zones being determined in the field. Hall finished reading the last two sentences of the paragraph and said although it stated the final and permanent zones will be approved by these entities. Hall said it nevertheless suggested that they'll be determined in the field. Hall said this was not appropriate because the council does not allow this for any other development. Hall said to make an exception for DHHL would not make a lot of sense because it still ends up being a voluntary thing.

Kirkendall said in general for a non-burial site it was recommended that any measures to protect something during construction, be placed outside of what was anticipated to be the perpetual buffer. Kirkendall said for example if the perpetual buffer was going to be 5 meters, then SHPD wanted the orange fencing outside of those 5 meters because it's possible for inadvertent impact to knock down the orange fencing. Regarding the

permanent buffers on the burials, Kirkendall asked if there was a plan on what she talked about was connected. Dega said he spoke with the homeowners association and SCS has sort of gone with what they recommended which was to sort of make a determination in the field.

Hall said these comments were not meant to denigrate the homeowners association because she knows the people who are involved are very good people. Hall said but they have almost no background in historic preservation. Hall said they are sort of fishing ideas out of the air and part of what has happened was that they need to be guided in the right direction. Hall said that was what the IBC, Kirkendall and even the CRC to an extent have been doing. Hall said this issue can't be an ad hoc process that differs from the way things are normally handled just because this was DHHL lands. Hall said in a sense because this was a Hawaiian agency and Hawaiian lessees, why wouldn't they come up to the mark and set an example. Hall said the council doesn't want to cut some slack for DHHL because the council has to be consistent in holding the same standards for every applicant so there will be equitable, fair treatment. Hall said if DHHL wanted to make a commitment to preserving any site found on the property, then she would have no problem with that. Hall said DHHL wants the flexibility to create formulaic responses and sort of work out the preservation buffers in the field which was something that was done prior to approving the plan.

Kirkendall asked if it would be possible for Dega to get the people from the association to each site. Kirkendall said she realized the logistics of doing this and understood there might be some resistance. Dega said it would take some time to do this. Kirkendall said once a lessee takes over a given parcel, the lessee needs to know before they are awarded the parcel of the possibility of not having total control over the entire parcel due to the fact that there may be a site. Dega said he didn't think the final sub-division has been approved yet and he didn't think parcels had been awarded for Keokea yet. Kirkendall said there's time to go out to these properties and establish burial sites. Dega said there was very little time and this would have to be done very quickly. Dega said this has always been a juggle about setting a standard buffer zone. Hall said this would give everyone assurances of what will and will not occur. Dega said the 7 sites could easily be relocated. Kirkendall asked if the association (inaudible). Dega said both, the roads were first, then the infrastructure. Hall said the way the BTP was written, she had assumed it was pre-construction of individual lots.

Kuloloio asked for clarification on page 15 of the BTP. Kuloloio said under consultation the second sentence which talks about jurisdiction, asked who has the jurisdiction in preserving the burials. Kuloloio wanted to know if it was DHHL, the Keokea Hawaiian Homes Farmers Association or the MLIBC, or if it was all or one or a combination of these groups. Kuloloio said the next sentence which reads "the DHHL is responsible for the ultimate decision about how the burial sites will be preserved." Kuloloio pointed out that it was DHHL and not the association who was responsible. Kuloloio said this was the point he was trying to make earlier about in case there's damage, violations or criminal acts who will be responsible for handling this. Kuloloio said this message was unclear and this paragraph needs to be cleaned up. Kuloloio said he had always thought DHHL was responsible.

Kapu suggested a recommendation go to the DHHL to (inaudible) crucial stipulation as soon as possible. Kuloloio asked Dega why he wrote what he did. Dega said his understanding of who was responsible is the DHHL and maybe the AG's concerns. Dega said as far as he knows, the DHHL has the final say in the preservation plan.

Kanemoto said federal lands are subject to NAGPRA. Kanemoto said on the island of Kauai, there were remains found on DHHL lands and DHHL sought the assistance of the Kauai IBC about the disposition of remains, but the KIBC adamantly told DHHL that it was their responsibility to handle the remains. Dega said the DHHL went to the council to get recommendation on the reinterment and preservation methods for the remains. Kanemoto said his understanding was that DHHL wanted the KIBC to handle the matter entirely, but the council said no and told DHHL they had to take responsibility for the remains. Kanemoto said he thinks the same would apply for Maui. Hall STET with Kanemoto and said it was because the MLIBC takes an opposite point of view.

Kuloloio said in time as this case was updated, he would like to see a DHHL representative who would help clarify some confusion and uncertainties the he and the council has. Dega said he was here as DHHL's representative but he was not DHHL. Hall said even if there was a DHHL rep here, the rep may not be any clearer than the council was.

Hall said on page 18 the paragraph at the top of the page seven lines down, a sentence needs to be included between "free of all structures and landscaping preferably with." Hall said the added sentence should read "no farming or other agricultural activities shall occur within the buffer zones." Fisher said in the second to the last sentence of the same paragraph to delete the word evasive and replace with the word invasive. Hall said the council prefers the use of native plants and to have this language included into the sentence mentioned by Fisher. Hall said on page 19 under verification in the seventh line where the sentence starts with verification to add the words "including photographs" before "that orange." Hall said 2 lines down, the sentence that reads "fencing or other demarcated blockades may also be placed around the entire Historic Preserve Area prior to any construction on the parcel." Hall said to replace the word "blockades" with "barriers" and to add the word "to" between "prior" and "any." Hall said to clarify the following sentence because it needs to have language inputted about the common boundary line. Hall said to clarify the comments suggested, she requested that a representative from DHHL be present at next month's IBC meeting.

**C. SANDHILLS ESTATES AT MAUI LANI, WAILUKU AHUPUAA, WAILUKU DISTRICT, ISLAND OF MAUI; TMK (2) 3-8-007: PORTION OF 121**  
**Information / Recommendation:** Discussion of long-term preservation measures.

Lisa Rotunno-Hazuka of Archaeological Services Hawaii identified herself and said the council should have received long-term measures for specific lots within the Sandhills development. Hazuka said there are minor changes on two of the long-term measures and a summary table about the burials which were just handed out. Hazuka said the council has been discussing this site's burial finds over the last 4-6 months and long-term measures, buffer zones, allowable usage have all been addressed. Hazuka said the long-term measures in the council's packets are tentatively what has been agreed upon thus far. Hazuka said the MNI table on the summary was the minimum number of individuals (MNI) that have been discovered to date at Sandhills. Hazuka said there have been 39

individuals. Hazuka said “in pink on the map presented here, these are the areas that will have burial preservation areas.” Hazuka said there are 10 preservation areas that will be discussed each of which has a plan that should have been included in your packets. Hazuka gave the council some statistics and said of the 39 individuals, 6 were relocated.

Hall asked Hazuka to explain what a partial in situ component means. Hazuka said a partial in situ component of a burial means that there are intact components of the feature such as; the burial pit still being present, there are human skeletal remains in the pit or the remains are articulated in a way they were originally placed. Hazuka said when partial in situ is used, it means some portion of the remains have been disturbed either previously prior to construction activities or during construction activities. Hazuka said there are times when we have previous disturbance which was from a burial preservation area being used over time by the Native Hawaiians. Hazuka said in general the archaeologist can determine what the traditional disturbance was from or if it's a more recent one. Hazuka said there were 6 burials with partial in situ components that the developer had asked to have relocated. Hazuka said one of the burials was in lot 32 which was previously disturbed by an existing sewer line that runs through the area. Hazuka said human skeletal remains were found all throughout lot 32. Hazuka said a large amount of testing was conducted and around 20 test units were done. Hazuka said after 3 feet of fill they reached the in situ components of the individual. Hazuka said the reason the landowner asked for relocation of this in situ component was because the in situ feature was approximately 8 feet above proposed grade. Hazuka said the burial has been relocated into the back of lot 32 which was agreed to by the MLIBC.

Hall wanted to explain something for the members who were new to this project and said all the burials being described by Hazuka were inadvertent burials. Hall said the burials were all found during construction. Hall said the county had approved this sub-division and the grading plan which shows areas of where cuts will be made and fill will be placed. Hall said this was a sandy area in which high points were cut and low points were filled to create this sub-division. Hall said when Hazuka says a request was made to relocate the burial because it was 8 feet above finished grade it meant that if a lot was going to be developed, then the burial had to be removed, otherwise there would be a big knoll. Hall said these decisions are the most difficult to make because every effort is made to always try and keep the burial in place, but it's not always possible. Hall said the council has come up with creative solutions in trying to preserve burials in place, but one of the things which can preclude this is when a burial is located in an elevation that is significantly above finish grade.

Hazuka said the same situation Hall had mentioned was present in find spot (FS) 77, lot 57. Hazuka said this was a very high knoll for road E which was 18 feet above the surrounding proposed grade. Hazuka said some burials were discovered within this knoll and 3 of the burials had an in situ component with the rest having been previously disturbed. Hazuka said this was another situation where relocation was allowed. Hazuka said the reason why these areas couldn't be resolved to just leave the burials in place was because utility lines had already been installed. Hazuka said relocation also took place on FS 86 which was located where the catch basin was going to be relocated. Hazuka said one day heavy rains filled this trench and exposed the burial. Hazuka said some of the burials did collapse and the rest were in danger of collapsing. Hazuka said the archaeologists went out and gathered all the human remains in the rain which was FS 86.

Hazuka said FS 86 was located across the road from lot 45 which has FS 87. Hazuka said it's important to note the majority of the burials were kept in place. Hazuka said road C had 5 individuals found at where FS 72 was. Hazuka said the developer wanted to remove the remains from the road but the council said no. Hazuka said after several different designs a median was finally proposed and all the burials was placed inside of this median. Hall said the burials would be in a planted area with a platform on top.

Hall asked how many preservation areas there were. Hazuka said 10. Hall said ordinarily landowners like to take the burials in their projects and put them all in one area so everything is opened up. Hall said this project will have 10 preservation areas most of which contain in situ burials.

Kapu asked if the sub-division had been sold. Hazuka said yes the lots are ready to go and just need signatures on the dotted line. Hall said the measures were going to be incorporated in a declaration attached to the deeds. Frampton for clarity asked if the lots had been sold. Hall said no the lots are reserved. Hazuka said the lessees have a deposit down. Frampton said the lots can't be sold yet because the developer doesn't have final sub-division. Hazuka said she thought there was final sub-division. Frampton asked if this was approved. Hazuka said the long-term measures have been approved. Frampton asked if they had been transferred to which Hazuka said no. Kapu said with this being the case, who does jurisdiction fall under? Kapu asked if the jurisdiction falls under the individual person to which Hazuka said yes. Kapu asked if Hazuka was representing all the families of the burials. Hall said Hazuka was the consultant for the developer who's going to sell these lots. Hall said in selling the lots, these long-term preservation measures would be incorporated in the declaration that runs with the lot that requires each individual lot owner to abide by these measures. Hazuka addressed Kapu and said she along with the council guide the developer and tell the developer, this is how it was and this is how it's going to be preserved in perpetuity forever.

Frampton said what they have was a transfer for when the new owner buys it, they become responsible to which Hazuka said yes. Hazuka said this was why each lot has an individual long-term preservation measures because each lot was different. Hazuka said some lots will have very similar features to others but each was different over all. Kapu said he just wanted to know if there was some kind of consensus from the private landowner himself. Hazuka asked Kapu what he meant. Kapu said pertaining to the consensus of whether or not the developer realized his responsibility. Kapu said if all these separate landowners understood there's a burial on the property. Hazuka said yes, ASH went through considerable amount of documentation and these long-term measures for the landowner's attorney. Hazuka said the attorney has written up a burial document about 20 pages long. Hazuka said the document talks about allowable usage, landscaping and was very specific in defining long-term measures and other responsibilities. Hall said this was going to be in the form of a declaration and it will be binding on the deeds.

Fisher asked over time as the property changes hands, who has enforcement of this. Hall said there's a provision made for SHPD to make periodic visits to insure the preservation measures are in place. Hall said the deed was encumbered by the declaration. Hazuka pointed out item 6 under maintenance in the long-term measures where it states what Hall had just said. Hall said 5 of the platforms would be visible from public areas. Hazuka said there's a burial rock platform in the front of the parcel of lot 45, there's a platform on lot 52,

another on lot 57, a rock platform on lot 53, one on lot 93 and road C the median would also be visible.

Kuloloio said suppose we get new council members and they become educated about the reinterment on this type of situation at Sandhills, the BTP and the proper procedures regarding burials. Kuloloio said in the future burial council members will be able to make these site visits, not only the SHPD representative. Hall said no the site visits are only for SHPD. Hazuka said the rules were written so that only SHPD can make these site inspections. Hazuka said if the council wanted to make a site visit, the council member would have to set up correspondence with the landowner to work out a reasonable time to meet. Hazuka said another reason why only SHPD can make a site visit was because the landowner doesn't want strange people to just pop up and walk through the property. Hazuka said the client was looking for an acceptance to go on record today of all the long-term measures as presented in the documents included in each of the IBC packets.

Hazuka said actually today only 9 long-term measures could be accepted because no long-term measures were proposed for the road median. Hazuka said there are some concentration areas like in FS 72 which has 4 people, FS 77 which has 6 and FS 92 which has 3 people. Hazuka said the summary handout shows what was found on each location. Frampton asked if the total amount of burials is 78 based on 39 MNI + 22 partial in situ + 17 previously disturbed. Hall said No. 22 and 17 equals 39 which was the total amount of burials.

Kapu asked what was the in situ component, meaning if it was a long bone, missing part or something else. Hazuka said in situ means some of the person was still intact as it was placed many years ago. In reference to the signage, Paoa asked if all the platforms would have a plaque both on the lots and the platform in the road median. Hazuka said yes. Paoa asked how this would be recorded Hall said they all have a metes and bounds description that would be surveyed by a professional surveyor. Hall said this would be made a part of the declaration that will encumber the property and run with the deed, meaning as this property passes on, it would be something that each landowner has to abide by. Hall said most of the reinterments have been conducted with only two more to go. Hazuka said correct, there's still lot 63 and FS 77 which was on lot 62. Hazuka asked the council if they had any other questions.

Kapu asked if this was a cemetery. Hall asked how big was this project area? Frampton said he doesn't have the answer but expressed how this project has a lot of burials. Hall said the crew was able to find so many remains. Frampton said it just makes you wonder how many have not been found. Kapu said in a sandy area he may want to plant something and oops there's a burial. Hazuka said on every lot the first foot or foot and a half is fill, but acknowledged the fact that at Maui Lani there was always the potential to find a burial. Frampton asked if utility lines still needed to be installed. Hazuka said yes. Hall addressed Frampton and said he needs to look at the elevation of where these burials are and the fact that a number of these burials are along a ridgeline. Hazuka said ASH does believe this area is a concentration and it probably is a cemetery. Hazuka said in regards to the whole area, she would assume 500 years ago this whole area was probably a cemetery. Hall said no cultural layers were found.



Frampton asked about the burials found in the road and if there were others. Hazuka said the developer dug into the concreted sand from which the burial pits were excavated. Hazuka said the new thing noticed here was, the burials were marked with a piece of sandstone. Hazuka said most of the other burials were found with a water stone placed on top the burials. Paoa asked where was the golf course in relationship to what is being talked about. Hazuka identified the golf course. Hall said this area was used for cemetery purposes and asked Kapu if his question was to the effect of why is development being allowed in this area. Kapu said yes. Hall said the answer was because the IBC doesn't have the ability to prevent development of an area this large. Hall said "if we use Honokahua as an example which is a concentrated burial site on approximately 5 acres. There were over a 1000 individuals identified as a result of archaeological excavation and prior disturbance and it was estimated at least a 1000 more burials were still in the dune which was not excavated."

Hall said it's undeniable Honokahua was a cemetery area. Hall said everything known about the Waihee sand dune area suggests it too was also a cemetery. Hall said if you start from Waihee and head towards Sandhills through this sand dune area and up towards Waikapu. Hall said one could make the argument this whole sand ridgeline on this interior dune system was all a cemetery area. Hall reiterated on the council's lack of ability to tell the county this entire sand ridgeline was off limits. Hall expressed if there was a large concentration that clearly suggest this was a cemetery, then the council can intervene in the development. Hall said if an area has burials which are intermittent in the sense that there are small concentrations scattered throughout a large property, the council does not have the ability to say no development on this whole area. Hall said it comes down to (inaudible) and identifying where burials are located. Hall said we start with an inventory survey but need to realize that while we approve of and think inventory surveys are necessary, they almost never give enough information on how many burials are contained in an area. Hall articulated the reason the council lacks the ability to halt development in areas like Sandhills was because due to the lack of information of an inventory survey, the council in turn lacks the evidence and basis to support a halt on development. Hall said the way a system works is unless it is known exactly where the burials are, the council can't declare an area off limits.

Hazuka said Hall had made a good point on previously identified burials and the council's jurisdiction versus inadvertent and SHPD's jurisdiction. Hall said the hope was in a sand dune area where you don't have any findings during inventory survey or scant findings during inventory was that you have an archaeological team who is careful and experienced in sand dune areas. Hall said when heavy equipment is used, it makes it all the more harder to spot human remains. Hall said the fact that 39 burials were identified makes you feel good in a sense, but also makes you wonder how many more burials were missed. Hazuka said burials were found in almost every situation thought of, when a tree was pulled out a burial was in the roots. Hazuka said burials were found next to sewer lines, catch basins, on the slope and at the base of the slope. Hall said over time as the council assists in identifying a site and doing what's necessary to protect that site it could prove very satisfying, especially when the burials can be protected in a manner that will last in perpetuity.

Kapu addressed Hazuka and said a comment was made on the bottom portion being all fill. Hazuka said yes and explained the golf course was really low and due to drainage

problems the area was built up 20 feet. Fisher asked if there was an old rubbish dump in the area to which Hazuka answered yes. Hall suggested when the platforms are built for council members to go out and take a look at them. Fisher asked if the IBC commissioners would be notified of the reinterment ceremony. Hall said there are two more left and mentioned she's been at each one. Hall said Kuloloio does the wrapping of the *iwi* in *kapa* and *lauhala*.

Paoa said this sand dune area was the site of some very famous Hawaiian battles which changed the course of history. Paoa said thousands of warriors died. Paoa said she's familiar with this land and shared how 500 acres was sold a long time ago. Hazuka said people have been asking if certain things they found are from the battle of *Iao* which they haven't answered yet. Hazuka said a lot of women and children are represented in the assemblage. Hall said the famous battle field mention by Paoa has not yet been found. Fisher asked if any cultural descendants have been identified to which Hall said no. Hall said the council was placing some relatively strong conditions for use of these lots at Sandhills for the protection of the burials. Hall said the council needs to be aware of the balance of how much a lot owner is going to accept. Hall expressed if a lineal descendent arises, then no doubt arrangements will be worked out. But, if a cultural descendent arises then this would be an issue to be worked out with SHPD. Hall said in terms of access, it was an issue that has to be negotiated even for lineal descendants. Hall conveyed how it's important when cultural descendants do come forward especially from off island, that a valid connection is made with the *iwi*. Hall said in a sense the council serves in place of the families in making decisions and making sure the burials are protected.

Hall said it would be good to include the SIHP site numbers in the motion. Hazuka said she believes it's from site 5687 through 5693. Hall said SHPD still needs to review this but this is just a recommendation by the council.

**Paoa moved and Fisher seconded “that the Maui / Lanai Islands Burial Council recommends approval of the long-term measures for SIHP site numbers 5687 through 5694.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

Hall reiterated to the council to go out to Sandhills and join Hazuka in checking out the area to see what was going on and what has been done. Hall said the items coming up are adjoining parcels.

Kapu asked about the acceptance of the long-term measures for SIHP numbers 5687 through 5694 and inquired about SIHP 5698. Hall told Hazuka before another motion was made to make sure the right numbers of sites was given. Hazuka thanked Kapu for catching her mistake. Hall asked if it was 9 sites total from 5687 through 5694 and 5698. Hazuka said yes because no SIHP number was given to road C. Kirkendall asked Hazuka if she was going to get a site number for road C before she formally submits her request to SHPD. Hazuka said yes and mentioned she hasn't written the long-term measures for road C as of yet.

**Paoa moved and Fisher seconded “that the Maui / Lanai Islands Burial Council recommends approval of the long-term measures for SIHP site number 5698.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

(Frampton exits the meeting at 12:07 p.m.)

**D. HUMAN SKELETAL REMAINS IDENTIFIED ON THE STEVENS PROPERTY, MAKENA, MAKAWAO DISTRICT, ISLAND OF MAUI; TMK: (2) 2-1-006:104**

**Information / Recommendation:** Discussion of draft burial treatment plan and reinterment location for human skeletal remains.

Lisa Rotunno-Hazuka of ASH identified herself and said there were human skeletal remains collected during inventory level testing at a 2 acre parcel in Makena. Hazuka said this case has been before the council at least twice over the past year. Hazuka said as a recap, testing was being done in a knoll area where an *ilili* deposit was discovered by use of shovel probes to see how deep the deposit was. Hazuka said formal controlled sand test excavation of the area followed the shovel probes. Hazuka said the probes showed a uniform layer about 10 centimeters thick. Hazuka said one probe continued down for at least 20 centimeters and after a formal unit was placed in this area, human skeletal remains were discovered. Hazuka said the remains were articulated and after removal it was determined to be of an older woman of Chinese ancestry. Hazuka said this burial was relocated off the property about a year ago. Hazuka said in the same *ilili* deposit, remains were found which did not belong to the Chinese woman. Hazuka said the additional remains were of a very small amount, about half a bag full. Hazuka said the remains were from a child and an adult. Hazuka said the third page of the handout show what was found of the adult and sub-adult. Hazuka said it was unknown as to the ethnicity of these previously disturbed human skeletal remains. Hazuka said after consultation with the landowner it was determined the remains had a strong possibility to be Native Hawaiians and asked that the remains be reinterred back onto the property. Hazuka said at an earlier meeting the council decided to designate the southeast corner of the lot as the preservation area. Hazuka said originally the landowner had proposed a 15 foot buffer around the skeletal remains, but the council asked for a 30 foot buffer due to the size of the lot. Hazuka said page 4 of the handout shows what was being proposed for the reinterment of the human remains.

Hazuka said that the same type of rock platform will be used as in other areas so the people of Maui can start to identify that these are burial platforms. Hazuka said the reinterment pit will be 5 feet in from the eastern and southern property lines and platform will be constructed. Hazuka said the edge of the platform will be 3 feet by 3 feet and basically what is left is a 28 feet area around the platform. In reference to the map on page 4 Hall asked if the outer edge of the platform was at least 5 feet away from the boundary line. Hazuka answered yes and said the graph was a little off but assured Hall the platform was 5 feet away from the boundary line. Hazuka said there would be 5 feet on either side and on the northern and western sides there would be the buffer of an additional 20 feet. Hazuka said a proposal was made to mark the buffer area with a low rock wall about 2-3 feet high. Hazuka said there would be native planting on the inside, nothing with deep roots, no trees and a plaque. Hazuka mentioned under maintenance the provision for SHPD to make periodic site inspections to ensure the long-term measures are being followed. Hazuka said presently there are no lineal descendency claims.

Edward Kaahui asked what was the purpose of 20 feet marker, because the property owner of the adjoining parcel could essentially construct something right next to the boundary line such as a pond and the burial could fall right in. Kanakaole mentioned the property owner on the adjoining parcel could plant a tree that could have roots grow into the burial. Hazuka acknowledge Kaahui's point. Hall asked if the property owners were willing to give the buffer, would the property owners also be willing to move the reinterment area more towards the middle of the buffer area. Hazuka said she would think so. Hall agreed with Kaahui and said the property owner of the adjoining lot could build a boundary wall or fence. Hazuka said there was an existing rock wall near where the reinterment area is and mentioned the intent of using some of those rocks to construct the boundary of the buffers. Kuloloio also concurred with commissioner Kaahui on moving the reinterment pit towards the center of the buffer area. Hazuka informed the council that when doing the inventory survey it was noticed that two platforms were on the adjoining parcel.

Kirkendall said in the documents that will be written up for this project, it would be in everyone's best interest to mention the sites in the adjoining parcel. Kirkendall said this was because for subsequent reviews it's recorded that there are platforms on the adjoining parcel and every document submitted to SHPD will have this notation included as a reference. Hazuka said she'll revise her long-term measures and present the changes at the next IBC meeting and ask for a determination at that time.

**E. INADVERTENT BURIAL DISCOVERIES AT HRT COMMERCIAL SITE, WAILUKU DISTRICT, ISLAND OF MAUI; TMK: 3-8-07: 121 POR**

**Information / Recommendation:** Discussion of inadvertent burial discoveries and proposed mitigation for inadvertent burial discoveries.

Lisa Rotunno-Hazuka of ASH identified herself and said the HRT Commercial site is located directly across of Baldwin High school and adjacent to the Sandhills Maui Lani property. Hazuka said a lot of grading had been done at HRT. Hazuka said there was one previously identified burial site on the lot which was site 4401 found during inventory level testing. Hazuka said quite a bit of trenching was done throughout the whole parcel. Hazuka said when monitoring was being done at Maui Lani FS 58 was exposed during the Old Sandhills sub-division grading and grubbing. Hazuka said a preservation plan came before the council in May 2003 where it was discussed site 4401 would be left in place, FS 58 which had one foot still articulated but was removed and determined to be reinterred back in the same location but at a deeper elevation.

Hazuka said human skeletal remains were also found along Kaahumanu Avenue in the sidewalk area. Hazuka said the remains were scattered and probably disturbed by an old water pipe which ran through an area. Hazuka said those remains were collected and the proposal on that BTP which was accepted by the council was to relocate these remains in with FS 58. Hazuka said work started at HRT around August in 2004. Hazuka said during monitoring additional human skeletal remains were found totaling 16 burials. Hazuka said the primary concentration of the 16 burials were at FS 85 and mentioned these finds did look like a family cemetery. Hazuka said after going through many different designs, the client decided to keep these 11 burials in place which is FS 85 A through K. Hazuka said there are 3 burials at FS 88 A, B and C.

Hazuka said these burials at FS 88 are approximately 5 feet above proposed elevation. Hazuka said the three burials found at FS 88 all have an in situ component. Hazuka said the individual at FS 88 A has most of the remains still in place. Hazuka said the individual at FS 88 B had a foot, the femur and another long bone. Hazuka said the individual at FS 88 C had mostly the lower bones and some of the upper bones which were crushed. Hazuka said the remains at FS 88 C were very fragmented and she was unsure if it was the archaeologist who caused the damage but it could have been. Hazuka said the client was asking that FS 88 A, B and C be relocated with the other remains at FS 85. Hazuka said a lot of testing was done to collect the remains of FS 83 which had most of the lower extremities. Hazuka said based on the location of FS 83 which was at the base of the building and 7 feet above finish grade, the client was also asking for FS 83 to be relocated. Hazuka mentioned FS 84 would be kept in place.

Hazuka said the only other additional information was the extreme grade difference from the Sandhills Sub-division side over to Maui Lani Parkway. Hazuka said there was a 40 or 50 foot difference. Hazuka reiterated on how there was 19 individuals found and 13 of the 19 would be preserved in place. Hazuka said the landowner was asking that 4 individuals be relocated and explained she put 5 on the handout because 1 individual has already been relocated. Kaahui asked how big this area on the map was. Hazuka said it was 250 feet in length by 200 feet in width. Kaahui asked how was the burial going to be preserved into the parking lot. Hazuka said the client created a second median that would become a preserve area. Hazuka explained to Kaahui how another area in the parking lot was abandoned to create a grassy area which is 4401 that has a platform, a plaque and fencing around the preserve to prevent people from sitting on the platform. Hall asked if the other median has similar preservation measures to which Hazuka answered yes. Hall asked how large the preservation area was. Hazuka said from what was proposed so far, the area would be about 55 feet by 50 feet.

Hall asked what was being proposed. Hazuka said the proposal was to relocate the remains to FS 85. Hazuka said FS 83 was close to FS 58, the two should be reinterred together. Hazuka said FS 88 B was in the middle of the access lane in what will be the parking lot and FS 88 C and FS 88 A are real near parking stalls. Hall said the area between two parking stalls was the isle width. Hall asked if Hazuka knew anything about the history of this lot. Hazuka said she knew about the old sewer line which ran through the area and there were two big cuts for maintenance of the line. Hazuka said she wasn't really sure about the history of the lot, she mentioned kids used to play in the area and that there were some motorcycle riders. Kuloloio mentioned the National Guard and Army Reserve used to use this area. Hazuka said evidence was found at Maui Lani where the military disturbed a lot of the area. Hall asked again what was being proposed. Hazuka said the proposal was to relocate FS 88 A through C to the preservation area set aside for FS 85 and to relocate the one find at FS 83 to FS 58. Hazuka said another individual found along the sidewalk of Kaahumanu Avenue would be added to FS 58.

**Kanakaole moved and Kaahui seconded, "that the Maui / Lanai Islands Burial Council recommends Find Spot 88 A, B and C be relocated and reinterred at Find Spot 85 and that Find Spot 83 be relocated and reinterred to Find Spot 58."**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

Hall asked Kanemoto if item F on the agenda could be deferred until next month's IBC meeting. Kanemoto said that was fine. Hall said to save time and move to the case updates she would entertain a motion to defer item F on the agenda.

**Kapu moved and Fisher seconded, "that the Maui / Lanai Islands Burial Council defer item F on the agenda until the regularly scheduled August meeting."**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**G. CASE UPDATES / OTHER INADVERTENT DISCOVERIES**

**Information / Recommendation: Inadvertent Burial Discovery Near the South End of Munroe Trail, Lahaina District, Island of Lanai; TMK: 4-9-2:001, Status Update on Implementation of Interim and Long-Term Preservation Measures in Burial Preservation Plan for Site 4142, Honolua, Lahaina District, Maui; TMK: 4-2-004:031, Status Update of a Reinterment at Victor Compos Property, Wailuku Ahupuaa, Wailuku District, Island of Maui; TMK: 3-4-039:076**

Inadvertent Burial Discovery Near the South End of Munroe Trail, Lahaina District, Island of Lanai; TMK: 4-9-2:001

Hal Hammatt of Cultural Services Hawaii (CSH) introduced himself, Tanya Lee-Greig head of CSH's Maui office and mentioned Ralph Masuda of Castle & Cooke Resorts was present but had to leave. Hammatt said the burials were found on a ridge top next to a dirt road which was now known as the Munroe Trail on or about July 4, 2005. Hammatt said the discovery was reported to DLNR on Lanai to Mr. Albert Morita who then informed Kirkendall of SHPD on Maui and Glenn Richardson the former MLIBC commissioner for Lanai. Hammatt said Kirkendall did a site visit on the 5<sup>th</sup> of July and then he, Lee-Greig and Richardson did a site visit on the 13<sup>th</sup> of July. Hammatt said inspected the site and mapped the discovery. Hammatt said the location of the burial was noted on the USGS quad which was interesting because no archaeological sites or burials had been located in this area before. Hammatt said the burials were located in 5 specific areas right along the edge of a hummock. Hammatt said the slope was at least a 45 degree angle and very unstable. Hammatt said the burials were exposed and sort of eroding out of the side the hummock and slope. Hammatt said they built some retaining walls on the slope to hold the soil back and recovered the burial. Hammatt said it looked like the burials had been exposed for quite a bit of time and mentioned some of the *iwi* had slipped downwards into the gulley. Hammatt said those remains were recovered and placed back with the original remains that were still fairly intact. Hammatt said CSH contacted Gary Onuma, who is the director in charge of hunting for Castle & Cooke on Lanai and asked him to stop hunting activities in this area which he has done. Hammatt said the *iwi* was temporarily stabilized with a couple of layers of shape rocks and soil, but did mention a heavy rain and some strong wind would destabilize the burials. Hammatt said Richardson and Kirkendall both felt the *iwi* should be relocated because of the precarious position on the slope. Hammatt said he believed the next step was for CSH to prepare a BTP for SHPD and the IBC so further consultation may occur.

Kuloloio said a lot of work has occurred since discovery of the burial on July 4, 2005 and mentioned one of the things he sees is this was a discovery which sounds like it's the first in this area of Lanai. Kuloloio said the discovery was in an area that has not been

surveyed by the state or any archaeologist. Kuloloio confirmed Hammatt's earlier comments about how Albert Morita informed Kirkendall, who contacted Richardson and CSH, who later went out to collect and temporarily stabilize the burials. Kuloloio said just by looking at the map handed out by CSH and going on the fact that four burials were discovered in this undeveloped area, it would sure constitute the high possibility of this area being a family burial. Kuloloio asked for more information about the area and for photos to give a better idea of what the area looks like. Hall agreed with Kuloloio and said because the burials are no longer exposed due to covering it with soil, pictures of the area would be good to show where the burials are located. Hall informed Hammatt and Lee-Greig that Paoa was the new Lanai representative for the IBC and suggested getting together with her so she can make a site visit on behalf of the council. Kuloloio asked if CSH could flag where the fragmented scatters were to show what came from where. Kuloloio also asked for a colored in skeletal burial registration form which shows exactly what features of the remains were recovered or identified.

Hall asked if Hammatt wasn't expecting to find any burials in the area. Hammatt said he think its been a long time since burials were found on Lanai. Hammatt said he believed the burials were found by a dirt-biker. Kirkendall asked to clarify and said it was a mountain biker that found the burials. Kirkendall said the mountain biker was riding on a trail which over time helped to cause erosion because the trail ran directly down slope and when it rained, the trail acted like a river carrying water down the slope. Kirkendall said she was glad the burials were stabilized in such a quick manner. Hall said she was glad CSH had gotten in contact with Richardson. Paoa mentioned Daryl Stokes who works for a company, said for the past couple years she thinks they have been laying new fencing to keep deer and pigs out of the area. Paoa said they had worked in the area where the burials were found about a year ago. Kirkendall said from what she's seen, it doesn't look like the fence line has been replaced yet. Hammatt said the fence line was on the map of his handout.

Kuloloio said since burials haven't been found on Lanai for a while, it would be good to get an update on where burials were found. Kirkendall said no burials were found since she has been with SHPD, but she will look for what information is available. Kuloloio said Uncle Sol Kaopuiki has given reports on burial finds. Kirkendall said SHPD has recommended a survey on the surrounding area to see if there are other burials. Hammatt said CSH intends to survey the area and mentioned there are other similar hummocks in the area that they will check on. Hall said the council looks forward to getting more information on this discovery.

#### Status Update on Implementation of Interim and Long-Term Preservation Measures in Burial Preservation Plan for Site 4142, Honolua, Lahaina District, Maui; TMK: 4-2-004:031

Hall said Rory Frampton isn't present, although she had notified him about the meeting and this will be on the agenda for next month's IBC meeting.

#### Status Update of a Reinterment at Victor Compos Property, Wailuku Ahupuaa, Wailuku District, Island of Maui; TMK: 3-4-039:076

Hall said the Chair Charles Maxwell, Leslie Kuloloio and herself were present and conducted the reinterment ceremony on July 19, 2005 at the Victor Compos property.

#### **IV. ANNOUNCEMENTS**

Hall said she wanted to pass out a letter that the council had approved be written to the district engineer for the State Department of Transportation, Highway Division on the Maliko issue of last month.

**Kuloloio moved and Kanakaole seconded, “that the Maui / Lanai Islands Burial Council defer approval of the minutes until the regularly scheduled August meeting.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

#### **V. ADJORNMENT**

**Kuloloio moved and Kapu seconded, “that the Maui / Lanai Islands Burial Council adjourn this meeting at 1:00 p.m.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

Respectfully submitted,

Kawika Farm  
Clerk Stenographer II  
State Historic Preservation Division